

STATE OF MAINE
SUPREME JUDICIAL COURT

AMENDMENTS TO THE
MAINE RULES OF CIVIL PROCEDURE
[DOCKETING CHANGES]

2009 Me. Rules 5

Effective: January 1, 2009

All of the Justices concurring therein, the following amendments to the Maine Rules of Civil Procedure are hereby adopted to be effective on the date indicated above. The specific rules amendments appear below. To aid in understanding of the amendments, an Advisory Note appears after the text of each amendment. The Advisory Note states the reason for recommending the amendment, but the Advisory Note is not part of the amendment adopted by the Court.

1. Rule 26(f)(1) of the Maine Rules of Civil Procedure is amended to read as follows:

(f) Filing of Discovery.

(1) Unless otherwise ordered by the court, or necessary for use in the proceeding, notices, written questions and transcripts of depositions prepared in accordance with Rule 5(f), interrogatories, requests pursuant to Rules 34 and 36, and answers, objections and responses thereto shall be served upon other parties but shall not be filed with the court. Notification of the date on which discovery papers were served on the parties shall be filed with the clerk. ~~on the form provided in the Appendix of Forms, and the clerk shall enter the date and type of discovery on the docket.~~ The party that has served notice of a deposition or has otherwise initiated discovery shall be responsible for preserving and ensuring the integrity of original transcripts and discovery papers for a period of two years after final judgment for use by the court or other parties.

Advisory Note

This amendment to Rule 26(f)(1), in combination with the amendment to Rule 79(a) eliminates the requirement that clerks docket notices regarding

discovery to reduce unnecessary work in overburdened clerks' offices. Placing notices in the file, date stamped when received, will provide a sufficient record of events should any question of timeliness or other compliance with the rules arise. The amendment also eliminates an outdated reference to the Appendix of Forms that no longer exists.

2. Rule 79(a) of the Maine Rules of Civil Procedure is amended to read as follows:

(a) Civil Docket. The clerk shall keep the civil docket, and shall enter therein each civil action to which these rules are applicable. Actions shall be assigned docket numbers. Upon the filing of a complaint with the court, the name of each party and each trustee, and the name and address of the plaintiff's attorney shall be entered upon the docket. Thereafter the name and address of the attorney appearing or answering for any defendant or trustee shall similarly be entered. All papers pleadings and motions addressed in Rule 7(a) and (b), and any opposition thereto and any returns showing execution of process filed with the clerk, and all appearances, fee payments, orders, verdicts, and judgments shall be noted chronologically upon the docket and shall be marked with the docket number. These notations shall briefly show the nature of each paper document filed or writ issued and the substance of each order or judgment of the court and of the returns showing execution of process. In the alternative the notation of an order or judgment may consist of an incorporation by reference of a designated order, judgment, opinion or other document filed with the clerk by the court, provided that the notation shows that it is made at the specific direction of the court. The notation of an order or judgment shall show the date the notation is made.

Advisory Note

This amendment to Rule 79(a), in combination with an amendment to Rule 26(f)(1), is designed to reduce workload in court clerk's offices by eliminating the requirement that all papers, notices and other documents filed in a case be noted by an entry in the docket. In place of the "all papers" docketing requirement, the amended rule includes a listing of filings that must be docketed that denote events and progress in the case. With this change, entries in the docket will be required for each complaint, counterclaim, cross-claim, third-party complaint, for any answer or reply to any complaint or claim, for a disclosure under oath, if trustee process is

used, for issuance of writs, and for all appearances, fee payments, motions, opposition to motions, requests for findings, orders, verdicts, judgments, amendments to judgments, and notices of appeal. However, other papers such as letters, notices, exhibits, and attachments to pleadings or motions will be date stamped when received and placed in the case file, but will not be noted in the docket.

3. These amendments shall be effective January 1, 2009.

Dated: December 12, 2008

/s/

LEIGH I. SAUFLEY
Chief Justice

/s/

ROBERT W. CLIFFORD
Associate Justice

/s/

DONALD G. ALEXANDER
Associate Justice

/s/

JON D. LEVY
Associate Justice

/s/

WARREN M. SILVER
Associate Justice

/s/

ANDREW M. MEAD
Associate Justice

/s/

ELLEN A. GORMAN
Associate Justice